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RESOLUTIONS

OF THE

XIVth CONGRESS OF THE ICC

Vienna, 18th—23rd May 1953



INTERNATIONAL CHAMBER OF COMMERCE
38, Cours Albert I^{er}, Paris VIII^e

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RESOLUTIONS

adopted by the

XIVth CONGRESS

of the

INTERNATIONAL CHAMBER OF COMMERCE

VIENNA, 18th - 23rd MAY 1953

INTERNATIONAL CHAMBER OF COMMERCE

International Headquarters

38, Cours Albert 1^{er} - Paris 8^e

THE INTERNATIONAL CHAMBER OF COMMERCE



Founded in 1919, the International Chamber of Commerce is a world federation of business organizations (chambers of commerce ; trade and industrial, banking and financial, transport and communications, and other associations, federations and unions) as well as of companies, corporations business firms and business men. Today, its membership extends to 53 countries. The I.C.C. is in no way controlled or subsidized by governments. Its activities are exclusively financed by the subscriptions of its members.

The action of the I.C.C. is twofold.

In the first place, it acts as spokesman of the business community in the international field and presents the business point of view to governments and to world public opinion. Having been granted the highest consultative status — Category "A" — with the Economic and Social Council of the United Nations, the I.C.C. is frequently called upon to advise on matters of vital concern to business men. Its National Committees, which are fully representative, undertake appropriate action as regards their own governments. It may be added that the I.C.C. represents its members not only at United Nations, governmental and non-governmental meetings, but also at all international gatherings of importance dealing with matters within the scope of its activities.

Secondly, the I.C.C. helps to ease the mechanism of world trade by attempting to remove the various technical obstacles which hamper the free flow of goods and services. Its Working Commissions and Committees, composed of qualified business leaders and experts, look for practical solutions to a series of problems under the following headings : 1. Economic Policy ; 2. Production and Distribution ; 3. Transport and Communications ; 4. Law and Commercial Practice.

The I.C.C. also provides its members with practical services. For that purpose, it has, among other things, established permanent bodies, such as its Court of International Commercial Arbitration — with a speedy and economical method of settling international commercial disputes, either through conciliation or arbitration — its International Council on Advertising Practice as well as the International Information Bureau of Chambers of Commerce.

Publications and reports on various questions and a monthly journal " WORLD TRADE " keep I.C.C. members fully informed on the Chamber's action in all important spheres of international economic relations.

National Committees of the International Chamber of Commerce have been organized in many countries. These Committees are listed at the end of this publication.

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VIENNA IN PERSPECTIVE

by

Richard BARTON

Director of Technical Services

" What has struck me is to find here the same appeal that may be heard confusedly today throughout the whole world, but which emerges from your deliberations amplified and clarified... In this appeal there is an anxious feeling of urgency, the feeling that there is no more time to waste, that the problems have been studied and re-studied from every possible angle, that it is no longer the moment for platonic declarations but for action. What the world wants is a program of action, because many people are saying to themselves that if two more years are allowed to pass without anything being done, it will perhaps be too late; that these two years are going to be crucial and that salvation or disaster will depend upon whether we act or fail to act. It is for you to gather together the scattered elements of this anguished appeal, to strengthen it and turn it into the message expected of you : a call to action and achievement... Therein must lie the essence of your power and usefulness. You do not work in an ivory tower. The resolutions you have just drawn up will not be dead letters, will not be buried under the dust of files. Back in your country, each of you will develop these views before public opinion and in parliamentary and governmental circles with a view to making them living realities. "

C. GUTT, President of the ICC.

IN order to see the Vienna Congress in its true perspective, it is not enough simply to read and analyse the resolutions adopted. Less than on any previous occasion can they be said to represent the sum-total of its meaning. At ICC Congresses, resolutions are nearly always the product of lengthy discussion and investigation reaching back into the previous months or even year, and the Council has already given them final shape. But Vienna came at a moment when outside events were moving

with exceptional rapidity and the thinking of previous months had to be fitted to the mood of the moment. If the Congress is to be truly assessed, its resolutions must therefore be woven into the background of the discussions that took place at Vienna itself.

This is what has been attempted here, at least in regard to the broader issues of economic policy which are particularly sensitive to changing trends and shifts of emphasis. But it is an exacting and delicate task, and a word of warning must be given. Only the resolutions themselves are the authentic expression of ICC official opinion. Any interpretations and riders plucked from the Vienna discussions must therefore be taken in the spirit in which they are offered, as an endeavour to enliven what might otherwise be a somewhat arid analysis of the Chamber's written word (*).

Expansion and Freedom of Trade

It was one of the seeming paradoxes of the Congress that so little attention was directly paid to the central theme "World Trade is Everybody's Business". It was the subject of no resolution, and only one speech dealt with it specifically — at the Closing Session. But the theme was not conceived as a matter for reflection and decision. It was a rallying cry for the whole Congress and as such it was immensely effective. By focussing attention on trade, its expansion and freedom, it brought the thoughts of the assembled businessmen constantly back to the fundamental objective the ICC was created to achieve.

The first General Meeting gave the lead. A flourishing import trade, it proclaimed, was a source of prosperity and high standards of living. The "Dollar Gap" was an ever-recurrent nightmare without the growth and freeing of trade. Only by dismantling frontiers could maximum productivity be achieved and full advantage be taken of technical and scientific progress. The first duty of govern-

(*) A survey of ICC activities leading up to the Vienna Congress will be found in the report by International Headquarters on The Work of the ICC 1951-1953 published as a supplement to the June-July issue of "World Trade".

ments was therefore to break the shackles they had forged, so often under pressure, and let movement cure the creeping paralysis of the world economy.

It was against this background of thought that the Congress turned to the other big problems of economic policy on its agenda.

Steps to Convertibility and Monetary Reconstruction

(Resolution No. 1 and Brochure 163)

The most important single issue debated at the Congress was undoubtedly that of monetary reconstruction and steps to currency convertibility. It was also the subject to which the ICC's Council and its main policy commission had given the most thought during the year leading up to the Congress. The Council resolution and the accompanying report of a Sub-Committee of experts were the outcome of many months of investigation and discussion among the ICC's National Committees throughout the world. The conclusions reached therefore deserve the most careful scrutiny by governments and businessmen alike.

The key-note of the agreed pronouncement of ICC Council and Congress is one of urgency. Convertibility, the ICC claims, is no longer a matter of wait-and-see; it is an *urgent* task for *immediate* action. The program of action proposed is for a *speedy* return to convertibility. This does not in the least mean, however, as some have suggested, that the ICC thinks, or thought when the resolution was first drawn up, that it is a simple matter to achieve convertibility. The ICC sees the problem as immensely difficult, but *nevertheless* urgent; it knows that the requisite measures are hard, but it believes they must be promptly and effectively taken, as otherwise "the whole movement towards the restoration of convertibility will receive a serious setback".

The conditions laid down by the ICC might even be called harsh. Countries working towards convertibility must maintain and intensify anti-inflationary policies at home and must balance their budgets in spite of the

heavy weight of defence expenditure. 'They must go still further in freeing trade among themselves. As soon as the reserve position permits, they must above all re-establish effective foreign exchange markets where a realistic pattern of exchange rates can be reached. On the other hand, countries in the more fortunate position of having already convertible currencies and ample monetary reserves must carry out what one speaker described as a "quasi-revolution in policy and administration" by opening their markets more freely to the others, thus letting them pay their way instead of depending on gifts and loans. To buttress the newly freed exchange markets and to provide a cushion to fall back on in possible future recessions, they should also establish adequate convertibility funds and take other appropriate measures to increase international liquidity. It will be seen that the ICC makes big demands both nationally and internationally on the two sets of countries and that it believes the return to convertibility to be feasible only if those demands are met.

It is possible, however, that, as one of the speakers put it, the resolution written in February 1953 strikes a "confident and crusading note" and that by the time the Congress met this note no longer fully reflected the mood of the assembled businessmen. The crusading spirit was as strong as ever; for businessmen the world over know from harsh experience the crippling effect on trade of exchange controls and the absence of a freely working exchange market. The need for a sound monetary system based on convertible currencies was felt with the same acuteness. Where the climate had perhaps lost some of its radiance was in the realm of confidence.

The economic and psychological factors on which the note of confidence had originally been based were still there. The economic situation was still such as to warrant a decisive step forward; government opinion and public opinion were still in a suitable state of preparedness. But the discussions at Vienna both within and without the meetings reflected a growing doubt as to whether the governments were in fact going to take *in time* the needed measures on the *international* plane.

It was the issue of expansion or contraction of trade that gave rise to most of the heartsearching, far more than on

technical questions of method connected with the reconstitution of adequate monetary reserves. What likelihood was there that before a new, even minor, payments crisis set in, the markets of the world would be thrown open to a freer flow of imports ? In the lack of an overall policy, would some partial convertibility creep in at the expense of a growth in trade ? These, and other subjects of preoccupation (where in fact would the necessary monetary reserves be found ?) cast a shadow on the more hopeful spirit in which the resolution had first seen the day. All eyes were turned in anxious questioning to those who alone were in a position to give a decisive lead to the world.

Economic Development and Private Investments

(Resolutions Nos. 2 and 3 and Brochure 165)

In turning from trade expansion and monetary reconstruction to the apparently narrower topic of private international investments, the Congress was keenly aware that it was in fact simply taking up another aspect of the same overall problem. The close link between investments and the whole structure of multilateral trade and payments is brought out in the resolution, but it was even more heavily underlined in the Congress debates. The flow of private capital from one country to another was seen not only as a *sine qua non* condition of economic growth and thus of rising standards of living, but also as an essential factor in restoring a long-term balance in international payments. It was made clear too what an important part international investments had to play in re-establishing, in some new but enduring form, the triangular pattern of world trade, the absence of which is one of the underlying causes of the present disequilibrium.

The main purpose of the Congress resolutions dealing with economic development and international investments is to scrutinize recent trends of thought in United Nations and other inter-governmental circles in the light of the principles the ICC has been led to establish through the studies and investigations it has been steadily conducting since 1946. One of these recent happenings is the adoption by the General Assembly of the United Nations in

December 1952 of a resolution entitled "Right to Exploit Freely Natural Wealth and Resources". The disquiet aroused in business circles by this official pronouncement has impelled the ICC to enter a protest to the Economic and Social Council (Resolution No.3). It has no quarrel with the rights invoked, but it cannot accept the completely one-sided character of the resolution. Where there are rights, the ICC reminds governments, there are corresponding duties and obligations which it is dangerous and misleading to pass over in silence.

The other more detailed resolution (No. 2) starts with a plain statement of fact which one of the speakers said should be hammered home everywhere with "a crusader's faith and enthusiasm". This fact is that the kind and degree of economic development to which countries are aspiring simply will not take place without a big expansion of *private* investments. Government funds are neither suitable for the purpose nor likely to be sufficient. But, the resolution goes on, this big expansion of private investments in turn depends on the incentives offered and the climate created, and here the responsibility falls primarily on the governments of the investee countries. The resolution concludes with an analysis of certain current misconceptions concerning the respective roles of private and public funds, the role of private enterprise in economic development, reliance on quantitative trade restrictions and exchange control, the pace of development, respect for the profit-motive, and finally the place of industrialization in healthy economic growth.

On all these topics, many interesting points were raised in the debate staged at the Vienna Congress on the Project for an International Finance Corporation which the International Bank for Reconstruction and Development was studying. In particular, the debate threw new light on certain aspects of the dividing line which must be sought, in practice if not in theory, between governmental action and private enterprise in schemes for promoting the economic expansion of underdeveloped areas.

Although there was practically unanimous agreement on the broad lines of the resolutions adopted, the discussions revealed an inevitable cleavage of opinion on certain points between the potentially investor and investee

countries. Perhaps the main source of conflict lies in the fact that purely economic considerations carry less weight with countries that are endeavouring not only to develop their economic resources but at the same time to build a new nation politically. The task the ICC has now undertaken of drafting a Code of Standards for Investors may help to throw new light on some of these divergencies and thereby pave the way to unanimity.

Primary Production and Economic Stability

Although no resolution was proposed, or indeed invited, on the thorny problem of economic stability in relation to primary production, a review of the Vienna Congress would be singularly out of perspective if the subject did not even receive a passing reference. For, as one of the speakers claimed, it may prove to be one of the most important problems for the business world in the coming two years, and one of the main purposes of the Vienna debate was to set up signposts for the future.

One of the most useful of the signposts was the fact that we had — for how long no-one could say — a breathing space in which it was no longer necessary to apply first-aid. For the moment, there was no obsession either with shortages and sky-rocketing prices or surpluses and slumping prices. The problem could be seen as a whole — shortages and surpluses together — and a serious effort made to find a policy which would enable “fluctuations in production and consumption and therefore prices to be held within reasonable limits”.

Both the governments and the business interests concerned are pardonable for not having found this ideal policy so far. For, nowhere more acutely than here, do we find exemplified in concrete form the conflict between the overall advantages of flexibility and freedom and the necessity of some measure of long-term stability. As one of the delegates said, here we are trying to have the best of two worlds. But one of the worlds is that of the primary producing areas and, as the debate on Asia, Africa and Latin-America threw into sharp relief, the drive

towards industrialization on a national basis — however excessive it may be in many eyes — is in large part due to the refusal to accept the helpless vulnerability of the primary producer to recessions and depressions.

The ICC, backed by the practical experience of those actually engaged in producing and marketing the food-stuffs and raw materials of the world, will surely be able in the coming period to throw light on this complex problem and contribute to the gradual formation of a sound governmental policy of international cooperation.

Opening Frontiers to Trade and Travel

(Resolutions Nos. 6 and 7 and Brochures 164 and 172)

Importers and exporters alike are constantly telling the ICC that the costly and burdensome regulations and formalities imposed by the various administrations are often a far worse hindrance to the conduct of their business than the actual customs tariff or other protective device itself. This was again sharply emphasized in Vienna, not only in words but through a striking exhibition of documents and charges organized by the British National Committee. Resolution No. 6 on the Simplification of Trade Formalities therefore hails with deep satisfaction the practical steps recently taken by the Contracting Parties to GATT to clear away some of the worst excesses. If, as the Contracting Parties recommend, consular formalities are totally abolished by the end of 1956 and, pending their abolition, consular fees and formalities are sharply reduced, and if the number of documents required by the Customs administrations is cut down to a minimum, the trader's task will be singularly eased. Similarly, the entry into force of the new Convention dealing with the Customs treatment of commercial samples and advertising material will remove many of the difficulties at present impeding the application to international trade of modern methods of market prospection.

The resolution is not, however, simply a paean of praise. Agreement among the Contracting Parties on the texts

adopted is already an achievement, but there is still a long road to travel. The Convention must now be signed and ratified. The GATT recommendations imply drastic reforms in many countries and these must now be carried through. In the last resort, the effectiveness of the work done by GATT with the collaboration of the ICC therefore depends on action still to be taken by governments and parliaments. This action in turn depends — and this was a point strongly emphasized in the Vienna discussions — on the vigour with which the business community in each country presents the GATT-cum-ICC case to its own authorities. The resolution's appeal to governments is thus at the same time an appeal to the ICC's own National Committees and membership throughout the world.

In the report approved by the Vienna Congress on Red Tape in Travel, the ICC is fighting a similar battle, but this time for the traveller. He too must endure innumerable tiresome and unnecessary formalities both before and during his journey and often even after arrival at his destination. The report sorts out these various formalities and puts up a reasoned case for a greater simplicity and efficiency in the regulations. The detailed recommendations in the report deal with passports and visas, income-tax formalities, currency controls, Customs inspections, visits to the police and automobile papers. May these recommendations be received by the government departments concerned in the same helpful and cooperative spirit as the ICC recommendations on trade formalities have been received by GATT!

Economic Unification of Europe

(Resolution No. 4)

Individually and collectively, the European members of the ICC have been in the vanguard of those fighting for the economic unification of Europe. But ever since they were first called upon in 1950 to submit a concerted statement of their views to the Council of Europe, they have remained in their great majority faithful to a concep-

tion of a United Europe based on their experience as businessmen engaged in international trade.

This conception is that of a vast market where economic frontiers will be a thing of the past and men, money and goods may circulate freely. The emphasis being on a market economy, some common measure of exchange, in other words either free exchangeability of currencies or a single money, is a *sine qua non* condition. The market is also conceived as an overall market where there will be neither discrimination against nor privileges for any individual sector of the economy.

The opening up of this new single market must of course be a gradual process. Windows cannot be thrown open suddenly on men who have lived for so many years in a tiny enclosed space. But, however gradual, the process must be in the direction of economic freedom; in other words it must be a more or less rapid dismantling of barriers hindering the free economic intercourse of individuals and enterprises at present cut off from each other by national boundaries.

Having set itself this broad objective, the ICC's Commission on European Affairs has used it as a touchstone for judging the merits of more recent trends in policy and action towards what has come to be called "European integration". The first question it asks is whether the method proposed is likely to be favourable or unfavourable to the formation of a European market, throughout the whole area of which individual initiative will have full scope and freedom of action. This explains the reticence with which it has received plans for extending the Schuman Plan method of partial integration through specialized institutions to an ever widening circle of other economic sectors. There is an immense gulf, it feels, between a free European market as conceived by its members and a series of markets, each guided and controlled by a supra-national institution and lacking the first prerequisite of free movement, exchangeability of means of payment. If authority there must be, let it be an overall political authority with its accompanying safeguards and not a combination of specialized technocracies.

It is in the light of this general approach that the more detailed arguments in the Commission's resolution on

"The Sector-by-Sector Approach to European Integration through Specialized Institutions" must be read and assessed. Although strictly speaking it is not a Congress resolution — divergencies of opinion having arisen in the ICC's Council after its adoption by the Commission on certain points of emphasis and drafting — it was transmitted to the Congress as a basis of discussion with the Council's general endorsement and the reception it received in the Congress debates shows to what extent it is a faithful reflection of the views of most of the ICC's European members.

Organisation of International Transport in Europe *(Resolution No. 13)*

There are few sectors of the European economy where the ICC has been able to do more practical work for business than in the field of transportation. By maintaining close collaboration with the governmental and private organizations concerned, and particularly with the Economic Commission for Europe of the United Nations (ECE), it has been able to press for many valuable improvements in the European transportation system and at the same time uphold the interests of private industry and trade, the user of transport. The task it is performing can be fully appreciated only through a careful scrutiny of the technical resolutions and reports of the ICC's Transport and Communications Group (Chapter V). But two resolutions of a general character (13 A and 13 B) find their rightful place here, since they are concerned not with specific technical problems but with methods of organization at the governmental and institutional level.

In the last year or so, interest in European transport problems has suddenly quickened and the field has been invaded by an ever increasing number of inter-governmental bodies. All have a finger in the pie. The quickened interest is all to the good, but in resolution 13 A the ICC reminds governments that the pie will be spoilt if there are too many cooks. In the interests of efficiency,

the fullest possible use must be made of existing bodies, before any new ones are created. The activities of the various organizations must also be coordinated, so as to avoid waste of effort, conflict and overlapping. The resolution ends by drawing attention to the methods successfully employed by the ECE of close consultation with all concerned, including the transport users, both on the institutional and on the technical aspects of European transport problems.

Resolution 13 B covers similar ground in relation to intra-European air transport. Commenting on a recommendation of the Council of Europe, the ICC recalls its own proposal, unanimously supported by users and carriers, for the creation of a permanent European Advisory Council on Air Transport. It again urges the absolute necessity of bringing the users in to any conferences or consultations aimed at a closer association of the air transport companies. The resolution ends by regretting that the Council of Europe should lend its official support to the project of a European transport authority, "before this project has been studied with sufficient thoroughness". Particular satisfaction was expressed in the course of the discussion at the abandonment of the idea of a single European air carrier which the ICC had opposed from the outset.

Distribution and Advertising

(Resolutions Nos. 8, 9, 10, 11, 12, Brochures 167, 168, 169 and ICC Document 17)

One has only to compare the list of resolutions with the scope and variety of the subjects actually discussed at the Group Meetings devoted to distribution to realize immediately that the resolutions do scant justice to the important activities of the ICC in this sector. Distribution is in fact typically one of those spheres of practical action where the representatives of the trades and industries concerned think less in terms of recommendations to governments than of actually doing the spade work themselves. This is well illustrated simply by listing the subjects debated at the Congress on which valuable practical work is being done but which are not touched upon

in the resolutions adopted : publication of a series of market handbooks for specific products in particular countries (seven already out and three in preparation), operation of a centre for the exchange of information between the distribution trades in the various countries, preparation of an up-to-date critical study of distribution censuses, publication of a compendium of distribution statistics in 15 countries (ICC Doc. 17), study of methods of coordination between producers and distributors, investigation of the impact of European integration on distribution, publication of an eight-language dictionary of advertising and distribution terms.

Both the leading resolutions on distribution (Nos. 8 and 9) hinge on the question of freedom. Looked at together they bring out very well one of the paradoxes of our time. The process of distribution is accused of lagging behind production in efficiency and therefore adding disproportionately to the price of the product when it reaches the consumer. For that reason, or pretext, regulations and controls are clapped on the distributive process. On the other hand a study of the facts tells us that if the distributive machine has grit in the wheels, this is more often than not precisely due to the haphazard proliferation of these very regulations. The ICC is trying to break this vicious circle in two ways, and in the first place by enlightening governmental and public opinion. Herein lies the value of the preliminary study it has just published (Brochure 168) of regulations and taxes affecting distribution. The ICC's other line of attack is to do everything it possibly can to make the machinery of distribution efficient, thus ensuring the best and quickest turn-over of resources in the interests of the community as a whole.

But the efficiency of distribution depends in its turn very largely on adequate information being available to industry and trade. The hub of the ICC's drive for efficiency has therefore always been the promotion of good and reliable statistics. Only one aspect of this work is reflected in the resolutions, namely the comparatively new field of the development of retail trade statistics. Resolution No. 11 is a call for redoubled efforts on the part of all concerned to continue and extend this task of statistical research and compilation. The discussions brought out the reluctance of retailers in many countries to reveal

information about their businesses which they fear might be used against them. This is a reluctance which the ICC is endeavouring to overcome, for it is a serious obstacle to further progress in this field. The resolution is based on a publication (Brochure 167) showing the results so far achieved by public, semi-public and private bodies.

One of the most ticklish problems the ICC has under constant review is that of resale price maintenance. There is a great deal to be said both for and against this practice and trends of thought vary widely from one country to another. The factual study published by the ICC on the occasion of its Vienna Congress (Brochure 169) is therefore designed to serve as a basis for further consideration of this complex but important issue and will, it is hoped, contribute to ultimate agreement on a policy acceptable to all interests in all countries.

In the realm of advertising, the Congress confined itself (Resolution 12) to adopting an amendment to the Code of Standards of Advertising Practice. The practical value of this amendment is that it opens the door to the extension of the Code to certain countries which have been hitherto reluctant to accept it. In addition, the discussions at the Congress foreshadowed some interesting developments in other sectors of the ICC's work, such as the standardization of methods of research into the quantitative and qualitative circulation of advertising media, early publication of an up-to-date study of advertising conditions in the various countries, and investigation of governmental and other regulations affecting certain forms of media or the use of advertising for certain classes of media.

Transport and Communications

What we said of the Lisbon Congress resolutions on transportation applies with equal force to the resolutions adopted in Vienna. If they are to be fully understood, they must be seen as part of a broader picture of negotiation and discussion constantly in progress between the ICC and the inter-governmental and specialized transport organizations. This point is well illustrated by the

resolutions concerning the definition of transport for own account (No. 14 D). Read out of its context, it sounds like much ado about a few words. But those attending the Vienna debates know that this question of definition is the centre-piece of studies at present going on in Geneva which may seriously affect the transport operations of industry and trade and that the resolution was capped in Vienna by precise instructions to the ICC representatives in Geneva, particularly as regards hire-purchase and hiring of road vehicles.

Two thoughts dominate the ICC's approach to problems of Transport policy. The first is that if transportation is to be organized along constructive and realistic lines, full play must be left to economic laws and to the free initiative of carriers and users alike. There must therefore be a minimum of government interference. Secondly, the transport system is an instrument at the service of the whole economy. The requirements of those using it must therefore be the determining factor in any rules and regulations that may be devised and the users must be consulted at every stage.

The Two Freedoms of the Transport User (*Resolution No. 14C and Brochure 170*)

This general approach implies that industry and trade must enjoy two essential freedoms. They must be free to choose the type of transport best suited to their needs and they must likewise be free to carry their own goods in their own vehicles, in other words operate for own account. Why a healthy economy demands the respect of these two freedoms is explained in concrete terms in the report approved by the Vienna Congress.

General Transport Policy and User-Carrier Consultations (*Resolutions Nos. 14A and B. Brochure 171*)

The report on the Two Freedoms is an offshoot of a more general study of transport policy and coordination carried out jointly by the International Union of Railways, the International Road Transport Union and the ICC. This study should be read in full (Part I of Brochure 171), for it represents a landmark in the history of

transport coordination. For the first time rail, road and user have agreed internationally on the basic principles of healthy competition and commercial operation which should guide governmental policies in this field. This agreement includes full recognition of the user's two freedoms.

The second part of Brochure 171 also marks an important new development. It was clear from the discussions between the three organizations that basic agreement on policy was not enough. Both internationally and nationally problems of policy or technique were likely to crop up, calling for rapid consultation between all parties concerned. At the instigation of the ECE, quadripartite meetings were therefore organized between the three above-mentioned organizations, plus the newly formed International Union of River Navigation, to work out a system of organized contacts between users and carriers on the national and international plane. This new system of consultation, reached by common accord, should make it possible to resolve many delicate problems without recourse to government intervention.

Obstacles to Progress (*Resolutions Nos. 14E, 15C, 16A, B, C, and Brochure 173*)

As in every other sphere of its activity, transportation gives the ICC innumerable occasions of fighting against obstacles in the way of healthy progress. Examples of this kind of action are the resolutions and reports on flag discrimination, delays in the turn round of shipping, red tape in travel, and passenger service charges at air and sea ports. But there is one important gap in the list. As the Vienna Congress revealed, the ICC has also been battling with varying success within the United Nations against the growing tendency in certain areas to reserve transport insurance to national insurance companies.

Improvements in Rail and Road Transport (*Resolutions Nos. 17 and 18*)

The Berne Conventions for rail transport of goods (C.I.M.) and of passengers and their luggage (C.I.V.) have now been revised and have been signed by govern-

ments in their new form. The Vienna Congress was able to record its satisfaction at the extent to which the views of the ICC had been taken into account in this revision. Resolution 18 therefore calls for the early ratification of the new conventions.

In the resolution on road networks (No.17), the ICC throws the weight of its influence behind schemes for improvement that are already partly under way. It would like to see continued and extended the system of special funds for road networks. Two points are specially emphasized. First a larger part of the revenue derived from road transport should be devoted to the roads. Secondly, road development plans should be conceived in terms of the transport system as a whole and should therefore pay particular attention to means of access to the terminal points of other means of transport and to the linking of national roads into an international network of main traffic arteries.

Legal Aspects of Air Transport (*Resolution No. 15B*)

The revision of the Warsaw Convention, which deals with the liability of the air carrier and other legal aspects of air transport, has been under study by the ICC for some time. Resolution No. 15 B, after carefully weighing the pros and cons, concludes that it would be better to leave this widely ratified and useful international instrument unchanged for the time being. The few really essential improvements could, it feels, be carried out by protocols added to the existing convention.

Law and Commercial Practice

Trade Terms and Sales Contracts (*Resolutions Nos. 20, 21, 22, 23. Brochure 166 and ICC Doc. 16*)

Brief as it is, resolution No. 20 is among the most important of the whole Congress. It announces that in one of those fields of practical endeavour where business men can settle their own affairs without turning to governments, success has been finally achieved after several years of arduous discussion and inquiry. "Incoterms 1953", the new set of ICC Rules for the interpretation of nine contract terms such as FOB, CIF, is henceforth at the disposal of business firms throughout the world, with the hall-mark of Vienna Congress approval stamped on it. But the concluding paragraph of the resolution rightly includes a word of warning. Although representing the consensus of opinion of experienced traders from many countries on what is sound commercial practice, it is not a legislative code or even a code of customs with any force in its own right. It is in the nature of a standard contract and if traders want it to apply to their transactions, they must refer specifically in their contracts to "Incoterms 1953".

Simultaneously, the ICC offers the businessman a second string to his bow. If he has good reason for not referring to Incoterms, he may still fall back upon "Trade Terms", a new compendium which will tell him what the other contracting party abroad means according to the customs of his country by the terms used in the contract. In the last resort he can of course turn to the ICC's Court of Arbitration. At any rate, with all these facilities at his disposal, he has only himself to blame if he finds himself involved in some interminable international lawsuit.

In a related field the ICC wishes success (Resolution No. 23) to the work being done with its collaboration under the aegis of the United Nations' ECE to standar-

dize certain contract clauses for engineering equipment, and it welcomes the express reference in the latest text to "Incoterms" and ICC Arbitration.

The ICC also welcomes (Resolution No. 22) the efforts of governments to achieve uniformity in national laws governing international sales on the basis of a draft drawn up by the International Institute for the Unification of Private Law.

International Commercial Arbitration (*Resolutions Nos. 25, 26, 27 and Brochure 174*)

Arbitration is another domain where business men can go a long way on their own, but the enforcement of international arbitral awards does depend on legislation and therefore on international agreement among governments. The ICC is here simultaneously pressing for the full application of the already existing Geneva Convention of 1927 and for the elaboration of a new more effective international instrument based on a draft it has itself already prepared.

In a further resolution (No. 26), the ICC attempts to fill a gap in existing practice by suggesting that where governments, government agencies or government-controlled corporations have commercial dealings with private interests, the contracts should include a clause referring possible disputes to ICC arbitration or to other existing arbitral bodies. In cases where this is not feasible, perhaps, the ICC says, the permanent Court of Arbitration of The Hague might adapt its procedure to cover this new field.

International Protection of Industrial Property (*Resolution No. 19*)

With industrial property, we immediately enter a sphere where legislation and inter-governmental agreement are the determining factors. Business can only propose. But the protection of industrial property is a vital issue for industry the world over and a glance at the resolution will show the great range of subjects on which the ICC holds a watching brief on behalf of its members.

The ICC's approach has two prongs. First, it presses

for the early revision of the present *international* Convention and appended arrangements. It suggests besides a simplification of the formalities required for patent applications, amendments with regard to the period of priority, industrial designs and models, trade marks, and the international deposit of trade marks. Secondly, it proposes reforms in *national* legislation. Here it has specific recommendations concerning the effective protection of patents, and the need for a system of protection for horticultural and agricultural creations.

Banking Technique and Practice (*Resolution No. 24*)

Now that the ICCs' revised Uniform Customs and Practice for Commercial Documentary Credits are in force and are being increasingly applied by banks throughout the world, the ICC is turning its attention to other fields of endeavour where greater simplicity and uniformity can also be achieved through inter-bank agreement. One of these, dealt with in resolution No. 24, is the possibility of replacing the costly formality of hand-written signatures for commercial papers by a more efficient system. But other subjects, not covered by resolutions, were broached at Vienna and will come up for renewed consideration in the coming year. The delicate issue of finding a completely satisfactory definition of "clean" bills of lading will have to be examined with the other parties concerned, traders, carriers, and under writers. The bankers will also continue their study of uniform rules for remittances and the collection of commercial paper.

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One word in conclusion. Reaching the end of this survey, the writer is himself flabbergasted by the immense variety of items treated. At Rome in 1923, the ICC was congratulated on its choice of eight topics for discussion. Thirty years later, fifty topics would be below the mark. Admittedly, number is no criterion of worth, but it is at least proof not only of the expansion and greater complexity of ICC activities, but perhaps also of the growing interest business men everywhere take in the international economic issues of the day even down to their smallest details.

I

**MONETARY
AND
INVESTMENT POLICIES**

1. Program of Action for a Speedy Return to Convertibility

THE International Chamber of Commerce is strongly impressed by the fact that there is an ardent desire of the general public in practically every country to have again a currency in which they can have full confidence. This desire can only be satisfied through an early return to currency convertibility which, in countries with a free economy and a democratic form of government, is an indispensable safeguard against the disasters of inflation. Such action will not, when appropriate measures are taken, lead to ruinous deflation.

The ICC is convinced that the return to convertibility is no longer to be regarded as a distant goal; it is an urgent task for immediate action. This has found recognition of late not only in numerous governmental declarations, but also in measures of practical policy aimed at internal stability leading to a decline in inflationary pressures, and generally in an improvement of balances of payments. Thus the stage is set for the adoption of decisive measures. Unless the present opportunity is promptly and effectively seized, the whole movement towards the restoration of convertibility will receive a serious setback.



Action must be taken at one and the same time by the countries which have to work their way back to convertibility, by those whose currencies are already convertible and also by both groups together.

A. Action by countries working their way back to convertibility calls first and foremost for the restoration and maintenance of their *internal financial stability*. To that end they must apply anti-inflationary credit policies

and, due account being taken of the rearmament effort, balance their budgets at levels which are compatible with a private capital formation large enough to provide for healthy economic growth and social well-being.

These measures will enable the countries which adopt them *to liberalize their trade policies*. This is essential not only because the removal of controls must be combined with an expansion in the volume of international trade, but also because no country can know the true value of its currency so long as it maintains severe import restrictions which impede the normal functioning of markets and which are bound to lead before long to a reduction of exports as well as imports.

But the decisive step which must be taken in order to restore convertibility is to introduce, as soon as the reserve position makes it possible, *effective foreign exchange markets* under which a pattern of rates can be reached which corresponds to economic realities. As has always been the case in the past, the monetary authorities will have to intervene in order to set certain limits to the possible exchange-rate fluctuations and ensure that the inflow and outflow of foreign exchange have the desired effect on the volume of domestic credit. The proper functioning of exchange markets does not preclude measures to prevent capital flights.

B. Countries with convertible currencies and ample reserves should do three things :

1. *Liberalize their trade*. There can be no hope of a restoration and maintenance of convertibility without a lowering of trade barriers resulting in an expansion of world trade. The creditor nations have a special responsibility in this respect.
2. *Establish convertibility funds sufficiently large to ensure the revival of confidence*. The convertibility funds would serve the purpose of increasing international liquidity, which is needed not only to buttress the newly freed exchange markets but also to provide countries seeking to achieve convertibility with the necessary means of action in case of future temporary difficulties from which the world is never safe. These funds should be authorized to undertake

appropriate transactions, and in each case sufficient safeguards must be designed to ensure that the country granted facilities by the convertibility funds will take all the necessary steps promptly to restore its internal and external balance. The activities of the various funds which are established must be duly coordinated.

3. *Take other measures to relieve the foreign exchange markets.* Even under the most favourable circumstances, foreign exchange resources are difficult to earn, and this is especially true in the case of Western European countries, many of which have to shoulder burdens of different kinds, resulting both from devastations of war and from the present tense political situation. This difficulty would be mitigated to the extent that the creditor government is willing to accept payment in the currency of the other country. The sums thus received can be applied by the recipient to constructive economic projects either in the debtor country or elsewhere and in this way relieve the pressure for additional budgetary appropriations for foreign expenditure. Thereby, the demand for scarce currencies on world markets will also be reduced.

C. Action to be taken in common by countries with already convertible currencies and countries with inconvertible currencies will include the promotion of financial stability as well as of the conditions required for the production of export goods in areas essential to the development of triangular trade, measures to promote the use of the resources of the International Monetary Fund, and finally adoption of methods for a fair distribution of rearmament expenditure. In order to enable the different countries to draw up and apply comprehensive programs for a return to convertibility in which provision must be made for the maintenance of budgetary balance, it is essential that an agreement should be concluded fixing each country's fair share of the heavy burden of defence outlay which the Western world is now called upon to face.



The above program of action has been drawn up after consideration of a report submitted by a Sub-Committee of the ICC's Commission on Commercial and Monetary Policy. The ICC draws the attention of the government departments concerned and of all monetary and financial bodies, both national and international, to the analysis of the problems contained in this report.

(Original)

2. The Role of Private Investments in Economic Development (*)

THE healthy economic development of all countries, in other words the progressive raising of living standards and productivity on the basis of the freest possible exchange of goods, services, capital and manpower, is a fundamental objective of the International Chamber of Commerce. Its contributions to this cause in the last few years have been many. An overall analysis of the problem in 1947 (Brochure 107) was followed in 1949 by a Code of Fair Treatment for Foreign Investments (Brochure 129) couched in the form of a multilateral convention. Two supplementary reports on Financing Economic Development (Brochure 142) and on Governmental Guarantees to Investors (Brochure 145) completed this cycle of work.

The I.C.C. wishes to emphasize today certain points which are of special importance in the light of current developments:

- a) The kind and degree of economic development countries are seeking to achieve cannot take place without a big expansion of international private investments. Government funds are not suitable for that purpose and are, moreover, unlikely to be sufficient. Private investment alone has the dynamic and realistic qualities required, by giving full scope to individual inventiveness, enterprise and risk-taking. Direct business investment, for instance, represents the best possible combination of capital, technology and management.
- b) International capital movements are also capable of playing a very important role in balancing international payments.

(*) The Indian and Yugoslav Delegations reserved their position on certain points in this resolution.

- c) The expansion of international private investments depends to a great extent on government policy and particularly on the policy of the capital importing countries. These must take every possible step to provide incentives to the flow of capital into their territories and should therefore at least observe the basic principles of fair treatment of foreign capital laid down in the I.C.C.'s Code, which it is gratifying to note have already received a measure of recognition in certain countries.
- d) There are undoubtedly fields of development in which government funds have an essential role to play. But government financing should not be allowed to encroach upon areas which can best be served by private capital and enterprise. Nor can countries that fail to take the proper measures to attract and protect private investments expect to receive government funds as a substitute for private capital.

The translation of these principles into practice runs into many difficulties, which suggest the need to examine more closely the fundamental conditions of economic development.

First, economic development is not merely a matter of carrying into effect a pre-determined program drawn up by governments or central planning agencies. If it is to be effective and in harmony with economic realities, economic development must largely lean upon the free play of economic forces. Private enterprise has therefore far more than a subsidiary role to play since it is the very expression of those forces. The centralized planning of development programs may, moreover, become a source of dangerous inflationary pressures and balance of payments disequilibria.

Secondly, far from fostering economic development, quantitative trade restrictions and exchange control tend to stifle it by hampering freedom of initiative. The type of development produced under their shelter is lopsided and out of touch with economic realities. It is in the interest of the developing countries themselves to refrain, save in very exceptional circumstances and

temporarily, from adopting methods disruptive of international economic relations and therefore detrimental to the development of the world as a whole as well as in the last resort to their own.

Thirdly, it is a dangerous illusion to believe that big overall developments on a healthy basis can take place rapidly, although the pace of progress can be accelerated by appropriate measures. In the last resort, rapidity depends on the strength of the potential forces to be released, and not least on the inventiveness and enterprise of the people of the country in process of development as well as on the availability of private capital.

Fourthly, it is stultifying to act as though private profit-making were wrong and therefore the process of economic expansion should be largely left to governments. Neither government action nor government funds are satisfactory substitutes for private action and private funds. If the latter are inadequate or are deliberately hindered, the result must inevitably be less economic development at a slower rate.

Fifthly, the purpose of economic development is to raise living standards and it should not therefore be identified with any of the means used to that end and in particular with industrialization alone. Standards of living can be effectively raised only through the harmonious development of appropriate industries, agriculture, mining and trade, and not by establishing or maintaining uneconomic industries behind protective walls.

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The International Chamber of Commerce submits these observations for consideration to governments, the Economic and Social Council of the United Nations and all other international bodies concerned, and draws their attention to the detailed analysis of the problem of *Economic Development and Private Enterprise* contained in the report of the Rapporteur of its Commission on Foreign Investments and Economic Development (Brochure 165).

(Original)

3. "Right to Exploit Freely Natural Wealth and Resources" (*)

THE International Chamber of Commerce believes it to be its duty to draw the attention of the Economic and Social Council of the United Nations to the grave anxiety aroused in the business world by the resolution adopted by the General Assembly of the United Nations in December 1952 entitled "Right to Exploit Freely Natural Wealth and Resources".

This anxiety is provoked not by the contents of the resolution, but by its grave omissions and essentially one-sided character.

The sovereign rights of nations to dispose freely of the wealth and resources which they are constitutionally entitled to control are disputed by nobody. But to emphasize these alone without reference to the corresponding duties and obligations can lead to serious misunderstandings.

If the subject is to be adequately treated in a brief resolution, such as that of the United Nations General Assembly, the proper emphasis should also be given to the respect for contractual obligations, the duty of compensation in case of nationalization, and in general to the fair treatment of foreign capital and enterprise.

To exercise sovereign rights over national wealth and resources without due regard to these essential considerations would not only be unfair to the rights of others, but also in the long run contrary to the interests of countries in process of development which need foreign capital and foreign enterprise to develop their economies.

(Original).

*) The Yugoslav Delegation reserved its position on the whole of this resolution.

II

ECONOMIC UNIFICATION OF EUROPE

4. The Sector-by-Sector Approach to European Integration through Specialized Institutions (*)

SEVERAL projects for the economic integration of particular sectors of the European economy, all inspired to a greater or lesser extent by the underlying conceptions of the Schuman Plan, are at present under consideration by governments, parliaments and in some cases by the industries and trades concerned. There is an agricultural plan or "Green Pool", a "White Pool" for medicine and pharmaceutical products, and a project for a European transport organization. There may even be other projects in embryo which have not yet seen the light of day, for at least theoretically there is no limit to the number of sectors capable of being "integrated" in this manner.

On two separate occasions the International Chamber of Commerce has already made public its views on the Schuman Plan. In so doing, it expressed general approval of the broad objectives of the Plan, along with a certain number of criticisms. But this approval has always been accompanied by grave misgivings as to the advisability of extending the Schuman Plan method to other branches of European industry and trade.

The Commission on European Affairs of the I.C.C. therefore believes that the time has come for it to explain the reasons for these misgivings and to define more clearly its attitude to the so-called "sector-by-sector" approach to European economic unification.

(*) This resolution of the Commission on European Affairs of the I.C.C. was submitted to the Congress as a basis of discussion and not for adoption. The resolution was, however, approved in its broad lines by the Council of the I.C.C. and by the Congress General Meeting on European Unification. It is therefore reproduced here so that the reader may have a complete picture of the work accomplished by the Congress.

The I.C.C. has constantly favoured the economic unification of Western Europe (witness its declaration to the Council of Europe in March 1950), in other words the transformation of the present divided market of Europe into a single area, covering as much of Western Europe as possible, in which men, money and goods may circulate freely. It has also constantly emphasized the need for a transition period in which measures will have to be taken to cushion the shock of this new-found freedom. But this advance by stages towards the creation of a unified Western European economy has little or nothing in common with what amounts, at least in the initial stages, to a *division* of Europe into a number of integrated and non-integrated parts, by means of specialized institutions operating by sectors. The Commission is of the opinion that this latter approach is unsound, for the following reasons :

1. The overriding considerations in the launching and adoption of the Schuman Plan were political. It was designed to remove a dangerous conflict of interests within Europe and at the same time to establish the *political* nucleus of a broader European union. This is strikingly confirmed by the fact that even before the economic operations of the Coal and Steel Community began, the Assembly of the C.E.C.A. was instructed to set up a special assembly to take over from the future European Defence Community its function of drafting a political constitution for Western Europe. Had the objective simply been the organization on the European level of two basic industries, it is in any case hardly conceivable to business men that the authors of the Plan would have found it necessary to endow it with so complicated a political and administrative apparatus. However that may be, it is clear that the same political considerations do not apply to the other projected "pools". Their purposes are essentially economic, and there is therefore no need for them to look to the Schuman Plan as a model nor to create new institutions, nor to endow existing institutions with wider powers.
2. Economic unification poses first and foremost a monetary problem. Neither the unification of

Europe as a whole nor of any individual sector is conceivable without a monetary system based on currencies freely interconvertible and stable. This is an issue which the "sector-by-sector" approach is obviously incapable of handling. Until the basic monetary problems of Europe are solved, any attempt at the purely industrial and commercial integration of a particular sector is bound to live under the perpetual threat of being torn apart by inflationary tendencies and balance of payments disequilibria. It is significant that not even the elaborate Treaty of the Coal and Steel Community deals with exchange control restrictions.

3. A national, and still more a regional, economy is a highly sensitive and intricate structure. It is still too early to measure the direct or indirect effects of the Schuman Plan on the whole economy of the participating countries. But it is clear that several parallel plans operating in different sectors would lead to distortions of the whole economy which it would be difficult either to foresee or afterwards to correct. One branch of industry cannot be separated from the others, nor industry from agriculture, nor industry and agriculture from transportation. They are all parts of a single economic whole and must be treated as such.
4. The European economy is an integral part of a broader fabric, the world economy. Agriculture is a particularly striking instance of this. Practically all problems that a European agricultural organization would have to face are really world problems, whether they concern the formation of prices, production, imports and exports, or investment.
5. Any extension of the "sector-by-sector" approach on an institutional basis will render the ultimate economic unification of Europe as a whole more, not less, difficult. Each sector will bring together a different group of countries and to reconcile the conflicting interests of the various groups will be far from easy. Within each sector, moreover, vested interests and economic rigidities will be

created, which will have to be broken down before the sector can be fitted into the broader picture.

6. It is certain that integration by sectors would lead to an extension of governmental planning and control, contrary to present trends of policy in most of the countries concerned. However modestly such schemes may be conceived, they inevitably involve the setting up of some central body with more or less extensive powers over prices, production programs, financing of development schemes, investment programs, etc.; powers, moreover, which the corresponding ministries do not enjoy within their own countries. The Commission has never favoured the type of cooperation between nations which tends to replace the incentives of the market place by supra-national economic planning.

The case of investments is worth mentioning separately. Centralized planning, or even promotion, of investment programs within each individual sector is bound to result in over-investment or at any rate in unbalanced and uneconomic investment.

7. The various projects for the economic integration or reorganization of certain sectors of the European economy are today overshadowed by political developments.

There is first the European scene. A European Defence Community is in process of formation and the blue-print of a future political Constitution for Western Europe is under study. These two facts have immense economic implications.

The second alone, if it bears fruit, will make it unnecessary to go further with plans for "sectional" integration. But the world scene is equally in a state of flux. United States policy has still to be defined. Economic relations within the Atlantic Community, between the Commonwealth and Western Europe (including the overseas territories linked to it by constitutional ties), between Western Europe and the North American Continent, between the Commonwealth and the North American Continent, are in the melting pot.

In the circumstances, the Commission believes that the greatest prudence should be exercised in promoting institutions which may easily interfere with these vitally important developments.

The Commission is fully aware that there are urgent problems calling for solution, not only in agriculture, health and transportation, but also in many other sectors of the European economy. Without waiting for the establishment of a European political authority, every effort should therefore be made to solve these problems by a process of close cooperation and consultation both between ministers and government departments and between the industries and trades concerned. No additional institutional machinery is needed and much of this cooperation and consultation could take place within already existing organizations. The Commission is convinced that it is by such a course of action that rapid progress can best be made towards the economic unification of Western Europe on the basis of a free market.

(Original)

5. International Organization of Transport in Europe

See Resolution No. 13

III

OPENING FRONTIERS TO TRADE AND TRAVEL

6. Simplification of Trade Formalities

UNSTINTED praise is due to the thirty-four governments, Contracting Parties to the General Agreement on Tariffs and Trade (GATT), for the vigorous action taken by them at their Seventh Session in November 1952, on the basis of proposals submitted to them by the Lisbon Congress of the International Chamber of Commerce, to smooth the path of international trade by simplifying administrative procedure and formalities.

Two sets of recommendations and standard practices of great importance to trade were adopted by the Contracting Parties. The first calls for the abolition of all consular formalities (consular invoices and visas) as soon as possible and in any case by the end of 1956, and a sharp reduction of consular fees and formalities during the interim period. The second aims at cutting down to the strict minimum the number of documents required by the Customs authorities for the entry of goods.

The Contracting Parties also approved the text of an International Convention to Facilitate the Importation of Commercial Samples and Advertising Material, which was opened for signature by governments on 1st February, 1953.

A recommendation was also issued in response to the I.C.C. Council resolution on "Sanctity of Contracts", calling upon all the signatory governments to make every effort to permit the fulfilment of *bona fide* contracts concluded before the imposition or intensification of quantitative restrictions.

These are remarkable achievements and strikingly illustrate the excellent results that can be obtained by government officials and business men working together on practical problems of common interest in a spirit of cooperation and understanding.

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The International Chamber of Commerce calls upon all governments, whether or not they adhere to the Gene-

ral Agreement on Tariffs and Trade, to sign and ratify with the least possible delay the Convention to Facilitate the Importation of Commercial Samples and Advertising Material, and to give immediate effect to the recommendations and standard practices on consular formalities and on documentary requirements.

The I.C.C. attaches particular importance to the recommendation for the abolition of consular invoices and visas. These costly administrative formalities are among the most burdensome with which international trade has to contend. It is a pity that the GATT recommendation could not, for reasons of practical policy, take the form of a binding convention, but nothing should be left undone to obtain its acceptance, and every effort should be made to extend its adoption to countries outside GATT which at present impose these formalities.

With regard to "sanctity of contracts", the I.C.C. recognizes that the Contracting Parties have gone some way towards meeting the views of business, by adopting a recommendation to complete and strengthen Rule 3 of the Standard Practices for the Administration of Quantitative Restrictions drawn up at their Torquay Session in 1950. If the Torquay Standard Practices were fully observed by all governments in the spirit of the new recommendation, it is possible that trade would have comparatively little cause for complaint. But this is far from being the case, and the I.C.C. therefore feels impelled to draw the attention of the Contracting Parties once again to the immense harm done to international trade when governments introduce or re-inforce import or export restrictions without proper regard for already existing trade contracts and financial commitments. Contractual relationships are deeply disturbed, and the uncertainties and increased risks created by such unpredictable government decisions act as a brake upon the expansion of trade.

Another aspect of the same problem, the cancellation of import or export licences already issued to traders, might also usefully be reconsidered by the Contracting Parties in connection with Rule 4 of the Torquay Standard Practices. A licence is an undertaking by the government

towards the trader and such an undertaking should be respected.

Finally, the I.C.C. welcomes the decision taken by the Contracting Parties to investigate two other subjects proposed for study by the I.C.C., namely customs valuation under Article VII of GATT, and administrative regulations concerning the nationality of goods. These are subjects of great importance to trade and the I.C.C. will lend its full cooperation to the GATT investigations.

(Original)

7. Red Tape in Travel

See Brochure No. 172 "Red Tape in Travel"

IV

DISTRIBUTION AND ADVERTISING

8. Freedom in Distribution

WHILE some progress has been made in the elimination and reduction of the controls placed upon the distributive trades, the International Chamber of Commerce views with misgiving the continuation of many regulations which impede the achievement of the goal of maximum freedom of trade. Such freedom is essential if the business community is to contribute its utmost to the raising of standards of living.

Any interference with the free operation of distribution must inevitably affect the whole field of economic activity.

The International Chamber of Commerce therefore makes the following recommendations :

1. Governments should take into account the fact that any authoritarian organization of distribution in any one country or group of countries is liable to impede economic cooperation between nations.
2. The real objective of distribution is to stimulate demand, and therefore production, and ensure its more efficient allocation so as to raise progressively the level of consumption and standards of living. Governments should accordingly encourage *private enterprise* to investigate and apply commercial methods and techniques aimed at better internal organization of enterprises and collaboration between producers and traders, as well as in general at improvement of service to the consumer and reduction of distribution costs.

(Translation)

9. Regulations Affecting Distribution

THE International Chamber of Commerce has conducted a preliminary study of the extent of government and other regulation of distribution in the various countries, including taxation of distribution.

It is clear from the information so far received, first, that such regulation is very extensive and, secondly, that it is based on no clear conception of the need for efficient distribution, having grown up haphazardly out of considerations of public health and good working conditions, restriction of "unfair competition", *ad hoc* requirements of government revenue and so forth.

Efficient distribution by ensuring the best and quickest turnover of resources and by serving the interests of the consumer, is the key to a healthy economy.

At this stage of its study, the I.C.C. recommends :

1. That government statistics of taxation should be arranged to show clearly the proportion of taxation that arises from, or modifies, the free interchange of goods and services, and that the incidence of such taxation on specific goods should be shown in detail. Such statistics should be backed up by full statistics of the allocation of personal expenditure where this is not available at present.
2. That public authorities refrain from introducing measures contrary to the principles of efficient distribution, since such efficiency is an essential factor in the improvement of standards of living.

(Original)

10. Resale Price Maintenance

See Brochure No 169 " Resale Price Maintenance "

11. Compilation of Retail Trade Statistics

THE International Chamber of Commerce notes that in a number of countries regular statistics on the activity of the retail trade are compiled by public, semi-public or private bodies.

It stresses once again the importance of these statistics for the knowledge of economic conditions and for the information of business men and urges that the work of statistical research and compilation, which has developed widely since the end of the war, be continued and extended.

The I.C.C. requests retail trade organizations to redouble their efforts to obtain the support of their members in this matter with a view to broadening the field of investigation.

Efforts should also be continued to promote, intensify and improve publication of statistics of manufacturers' and wholesalers' sales of the principal classes of consumer goods.

The I.C.C. emphasizes the importance of working towards a greater international comparability of retail trade statistics.

Finally, the I.C.C. asserts the value of cooperation both between specialized statistical research departments or institutes in the different countries and between retail trade organizations, with a view to improving research methods and contributing to a wider circulation of the results obtained.

(Translation)

12. Code of Standards of Advertising Practice

THE International Chamber of Commerce approves the following amendment to the Code of Standards of Advertising Practice (Brochure 144) :

Alter Chapter III, B. 2 to read as follows :

“The accepted regulations governing the agency business in any country should be strictly observed by every agent doing business in that country. But this adherence does not necessarily imply approval of such regulations or preclude an agency from advocating changes in them which it believes would be in the best interests of advertising.”

(Original)

V

**TRANSPORT
AND
COMMUNICATIONS**

13. International Organization of Transport in Europe

A

ORGANIZATION OF INTERNATIONAL TRANSPORT

THE International Chamber of Commerce has been informed of the studies and inquiries undertaken with the object of establishing one or more bodies to organize transport in Europe, and in particular of the work of the conference of inland transport experts convened under the auspices of the O.E.E.C.

The I.C.C. submits :

- That the proliferation of intergovernmental organizations in this field should be avoided by making full use of the existing organizations, which have already performed valuable services, and,
- That the activities of the organizations should be coordinated, so as to eliminate waste of effort and to avoid the introduction by different organizations of measures which, where they do not conflict, overlap, and, where they do conflict, are detrimental to both international and national economies.

The I.C.C. considers that it would be useless to attempt to solve transport problems without a serious effort to meet the requirements of users as far as possible.

The I.C.C. therefore recommends, as regards both the institutional aspect and the detailed study of transport problems, that the work be continued by the political or the administrative authorities, regularly bringing in the international organizations concerned — governmental

and non-governmental — in accordance with the practice successfully adopted by the United Nations, and in particular by the Economic Commission for Europe.

B

COORDINATION OF AIR TRANSPORT

THE International Chamber of Commerce has considered the recommendation on the coordination of intra-European air transport adopted by the Consultative Assembly of the Council of Europe in December 1951. It is glad to note that the proposal to form a single European air transport company has been replaced by a study of the possibility of establishing closer relations between the European companies and, in this connection, draws the attention of the European governments and parliaments once again to the proposal (*) it made on November 3rd, 1951, with the unanimous approval of the carriers and the users, in favour of the creation of a permanent European Advisory Council.

The I.C.C. notes with regret that the recommendation of the Council of Europe makes no provision for consultation with users. It strongly urges that the conference called to study closer association between the companies should be composed not only of government experts and representatives of the air carriers but also of representatives of the users.

(*) The I.C.C. wishes to make the following observations and suggestions.

The present situation of European civil aviation calls for improvement, particularly along the lines laid down by the Chicago Convention, in order that international civil aviation may develop safely and harmoniously. It is, therefore, important that governments should not hinder this development by restrictive measures dictated purely by considerations of protectionism.

International air transport services must be operated soundly and economically, and the great achievements rendered possible by technical development should not be restricted by political obstacles resulting from the present system of exchange of commercial rights.

There should be established a permanent European Advisory Council at an

It also regrets that the statement issued by the Council of Europe in its published form, approves in its preamble the creation of a European Transport Authority, before this project has been studied with sufficient thoroughness.

(Translation)

inter-governmental level, on which users and operators, both regular air lines and charter companies, should be represented. One of its duties should be to examine urgently the possibility of removing the existing governmental restrictions and formalities which are retarding the efficient development of European air transport.

Appropriate machinery should be established within the International Civil Aviation Organization and the International Air Transport Association, which are world organizations, for the study and solution of European air transport problems from a specifically European point of view.

(Text adopted by the Council at its 76th Session).

14. General Transport Problems and Users

A

GENERAL TRANSPORT POLICY

**See Brochure No. 171 " General Transport Policy and
User-Carrier Cooperation " (1st part):**

B

USER-CARRIER CONSULTATIONS

**See Brochure No 171 " General Transport Policy and
User-Carrier Cooperation " (2nd part).**

C

THE TWO FREEDOMS OF THE TRANSPORT USER

**See Brochure No 170 " The Two Freedoms of the
Transport User ".**

D

DEFINITION OF TRANSPORT FOR OWN ACCOUNT

IN order to adopt the same line of approach to the problem of transport for own account as the Economic Commission for Europe (E.C.E.), the International Chamber of Commerce has found it necessary to alter the definition of its Lisbon Congress and bring it as closely

as possible into line with that of the E.C.E. Working Party on Coordination of Transport, as follows:

Transport of goods is called "transport for own account" when it is undertaken by an individual or a corporate body,

1. to move goods,
 - either belonging to him,
 - or connected with his trade, industry, activity or equipment, but provided the transport constitutes only an ancillary operation.
2. — either in his own vehicle(s),
 - or in vehicle(s) placed exclusively at his disposal on a hire purchase or hiring basis.

In the latter case, the hiring contract should be in accordance with :

- the national regulations of the country where the transport is carried out, in the case of internal transport;
- such international regulations as may be drafted, in the case of international transport.

The E.C.E. Working Party on Coordination of Transport, however, subsequently adopted a new definition (*) which the I.C.C. has declared itself ready to endorse, subject to the following reservations :

(*) Transport of goods is considered as transport " on own account " when the transport operation is performed by a physical or legal person.

1. a) either in its own vehicle (s) .
 - b) or in vehicle (s) placed exclusively at its disposal under the conditions laid down by national laws and regulations and international agreements regarding transport, and.
2. for the transport of goods ^(o).
 - a) either belonging to the said natural person or body corporate.
 - b) or bought, sold, borrowed or lent, loaned or hired, produced, processed or repaired by it, whether it owns the goods or not, but provided the transport constitutes only an ancillary operation.

(^o) In the case of transport by rail or by inland waterways the fact that motive may or may not be provided does not affect the status of transport on own account.

1. The list appearing at the end is considered to be incomplete because it does not include such items as goods in store. It was in order to avoid this difficulty that the I.C.C. advocated the formula "connected with his trade, industry, activity or equipment".
2. Furthermore, the phrase "whether it owns the goods or not" should in the opinion of the ICC, be placed immediately after the words "of goods", to make it more clearly understood that it refers to all cases mentioned in the list.
3. Finally, in the English text it has been proposed that the word "power" be added after the word "motive" in the footnote to the E.C.E.'s definition.

The I.C.C. may be induced to revise its position in the event of modification of the E.C.E.'s position.

(Translation)

E

RED TAPE IN TRAVEL

See Brochure No. 172 "Red Tape in Travel".

15. Air Transport

A

COORDINATION OF INTRA-EUROPEAN AIR TRANSPORT

See Resolution 13 B.

B

REVISION OF THE WARSAW CONVENTION

IN view of the world-wide ratification of the existing Convention, and the fact that many signatory States have incorporated the Convention rules into their own national laws, the International Chamber of Commerce believes that it would be unwise at the present time to attempt to revise the Convention and that in any case the basic principles should remain untouched.

If, however, there is general agreement among the signatory States on the need for certain amendments, such amendments should be incorporated into a Protocol to the existing Convention and this Protocol should not become effective until ratified by at least three quarters of the signatory States to the existing Convention.

Any amendments of this kind should, however, be confined to a few essential points. In the opinion of the I.C.C., these points appear to be three :

— *Scope*

The I.C.C. believes that it would be desirable to widen the scope of the Warsaw Convention along the lines of the Draft Revision drawn up by the "Warsaw" Sub-Committee of the International Civil Aviation Organization (I.C.A.O.).

Surface transport connecting with air transport should not in the view of the I.C.C. be included in the scope of the Convention.

— *Passenger ticket*

Details of the particulars to be included in the passenger ticket should not be laid down in the Convention. Some form of ticket is necessary, but its description in the Convention should be kept as simple as possible.

— *Air Waybills*

All details concerning such documentation should be omitted from the Convention and the precise form of the documents should be left to air carriers and users to evolve in the light of commercial experience.

As regards the limits of liability, those laid down in the Warsaw Convention have on the whole worked satisfactorily and have the merit of being accepted by all signatories of the Convention. It would be a great mistake to extend these limits, and any additional cover required by a passenger or consignor of cargo can be provided through the normal insurance channels as is the usual practice.

(Original)

C

PASSENGER SERVICE CHARGES

THE International Chamber of Commerce views with concern a growing tendency of Governments and other authorities to introduce service charges payable by passengers travelling by air and sea transport.

It is of the opinion that additional charges of this kind complicate administration and add yet another barrier to freedom of travel.

While recognizing that air and maritime ports should pay their way, the I.C.C. is of the opinion that the introduction of separate service charges is to be deprecated and should be abandoned and that the cost should be met in the inclusive passenger ticket or by other methods.

(Original)

16. Sea Transport

A

FLAG DISCRIMINATION (*)

THE International Chamber of Commerce records its constant concern that despite the universal condemnation of flag discrimination over a great number of years by the international organizations representing world trade and shipping, and by the League of Nations, the United Nations and the Organization for European Economic Cooperation (O.E.E.C.), it is today more widespread and damaging than ever before.

It urges all countries to re-affirm by positive action their belief in the principle of the freedom of the seas and their determination to secure the removal of all acts of flag discrimination of whatever kind (**).

(Original)

B

TURN-ROUND OF SHIPPING

THE International Chamber of Commerce takes note of the statement of the International Chamber of Shipping dated 16th January 1952, reproduced below, with which it is in full agreement.

It welcomes the action recently announced by Governments and port users in certain countries in their further endeavours to secure a speeding-up in ships' turn-round, and urges still closer co-operation, between shipowners

(*) The Indian Delegation voted against this resolution.

(**) The resolution does not apply to " gift cargoes ".

and users of transport to assist in the application of appropriate remedies to ensure a steady and smooth flow of traffic to, from and through the ports.

The I.C.C. will continue its study of the problem in co-operation with the International Chamber of Shipping.

STATEMENT

*adopted by the International Chamber of Shipping
at its General Meeting of 16th January 1952*

- I. This problem is one of the main preoccupations of shipowners in all maritime countries. Slow turn-round is not common to all countries or to all ports; indeed in some, turn-round is now as good or even better than in the past. But where delays in port exist, the contributory factors remain, in general, largely unresolved and the need for continued study of the problem and further action cannot be over-emphasized.
- II. In an appreciation of the root causes underlying slow turn-round, shipowners confirm that the main factors common to most ports concerned are those mentioned specifically in the recommendation of the Council of the Organisation for European Economic Co-operation at its meeting on the 10th August 1951, namely:
 - (i) inadequacy of port and clearance facilities in relation to the volume of cargoes handled, and.
 - (ii) local labour conditions.

In considering the first of these two main factors it has to be borne in mind that there is a tendency for ships to concentrate on fewer main ports. This tendency is to some extent a normal development due to an increase in the average size of ships and other economic considerations. It is, however, aggravated by the centralizing influence of bulk trading.

III. While the nature and degree of these root causes of slow turn-round differ in particular countries and in the individual ports affected, the following are among the principal reasons under these two main headings for the serious position which exists today:

- A. Insufficient berthage, warehouse and transit shed accommodation at certain large ports, with resultant congestion. In some countries this insufficient accommodation is due to unrepaired war damage. In other cases facilities would have been much more inadequate but for the help of the Economic Cooperation Administration;
- B. Failure in some ports to clear goods from transit sheds quickly enough;
- C. Inadequate internal transport facilities to and from a number of ports, aggravated by shortage of railway locomotives, wagons and lighters;
- D. The need for more mechanization and modern port appliances;
- E. Labour problems, including:
 - shortage of labour at peak periods;
 - restrictive practices;
 - failure to make maximum use of existing mechanical appliances;
 - disadvantages of pooling, i.e. dilution of specialized gangs, loss of personal interest in the job;
 - opposition to overtime or to shift-working or to incentive payments;
 - indifferent discipline due to various causes.

IV. As most ports are in international use it will continue to be of first importance that the views and practical suggestions of all users should be made known, but in the main and more especially to the extent

that the causes of slow turn-round have a material or physical origin, their solution depends on national or local action.

- V. But in relation to those aspects of the problem which involve the human factor, every opportunity must be taken, whether locally, nationally or internationally to secure a fuller realisation by all those who repair, load or discharge ships that, not only as workers in the repair yards and in the ports but also as members of the community at large, they have much to gain and nothing to lose by an improvement in output.

At the same time it is very necessary that those concerned should redouble their local and national efforts to ensure that the conditions of employment and the systems of administration are the most conducive to the greatest effort.

- VI. The International Chamber of Shipping is, therefore, of the opinion that very largely the solution of the problems inherent in the slow turn-round of ships in port is to be found through local and national action. It will, however, continue its close study of the matter in co-operation with the International Chamber of Commerce.

(Original)

C

PASSENGER SERVICE CHARGES

See Resolution 15, C.

17. Road Transport

IMPROVEMENT OF ROAD NETWORKS

GOOD roads are not simply a means of developing the motor industry, or of enabling manufacturers and traders to have their goods conveyed more easily, whether in their own vehicles or in the vehicles of commercial carriers, but they are also essential to the efficiency of all the other means of transport.

For instance :

1. Slow turn-round of shipping in ports, with its effects on the whole of economic life down to the consumer, to which the ICC draws attention elsewhere, would be appreciably speeded up by better means of access enabling a regular flow of traffic to be maintained to and from the ports.
2. The slowness of transport between airports and town centres, which threatens to deprive air transport of its main advantage of speed, is also largely due to inadequate road access to airports.
3. Rail or waterway transport often starts and finishes with a road service, on which it depends.

Economic life as a whole may indeed be said to depend upon good roads.

Consequently, the International Chamber of Commerce welcomes the measures recently taken in some countries to build up funds for the improvement of highway networks, and recommends the continuation and expansion of such measures, as well as that a larger share of the revenue derived from the roads should be devoted to them.

The I.C.C. urges all governments, however, in their road development plans:

- To take into account, not only the need to improve the arterial roads linking the main centres, but also the necessity of adequate means of access to the terminal points of other forms of transport.
- Not to confine their efforts to improving the national network, but also to keep in mind the possibilities of linking their national roads into a network of main international traffic arteries.

Finally, the I.C.C. recommends governments to go fully into the possibility of extending the system of joint customs offices, already adopted at certain frontiers.

(Translation)

18. Railway Transport

RATIFICATION OF THE BERNE CONVENTIONS

THE International Chamber of Commerce places on record its appreciation of the sympathetic hearing which its representatives received from the Preparatory Commissions and the Diplomatic Conference called to revise the international conventions on railway transport (CIM and CIV).

It is glad to note that the conventions signed in Berne in October 1952 by the Diplomatic Conference have clearly taken the interests of users into account.

On behalf of users as well as of carriers, the I.C.C. therefore calls upon governments to ratify the conventions signed in Berne with the least possible delay.

In view of the desirability of a world-wide standardization of railway regulations, the I.C.C. also recommends non-signatory countries to bring their regulations as closely as possible into line with the provisions of the conventions, which are based on many years of experience in Europe, whenever they amend their existing regulations or establish new ones.

(Translation)

VI

LAW AND COMMERCIAL PRACTICE

19. International Protection of Industrial Property Rights

A

REVISION OF THE UNION CONVENTION OF PARIS

I

Convening of Revision Conference

THE International Chamber of Commerce expresses the hope that the preparatory work for the revision of the Convention of the Union for the Protection of Industrial Property will be completed as rapidly as possible so as to enable the next Conference for the revision of the Convention to be convoked.

(Original)

II

Period of Priority (*Art. 4*)

THE International Chamber of Commerce is of the opinion that there is no justification for extending beyond six months, the period of priority laid down in Art. 4 of the Union Convention for Industrial Designs and Models.

Since designs and models are generally only short-lived, it is not right that a manufacturer should have to wait more than six months before knowing whether or not a foreign priority will prevent him from manufacturing.

In any case, there seems to be no advantage in having a uniform period of priority (for patents, trade marks and models), since the circumstances of each case are different.

(Translation)

Industrial Designs and Models

(New Art. 5 *quater*) *

In order to provide better international protection of industrial designs and models, the International Chamber of Commerce recommends to the Governments concerned the insertion of a new provision in the Union Convention, to be numbered as Article 5 *quater* and worded as follows :

Article 5 quater

1. Protection shall be accorded to all new industrial designs and models which serve for the decoration, ornamentation or configuration of any industrial product whatsoever with the exception of those which are dictated solely by the technical function of the article.
2. The novelty of the designs and models shall be determined according to the facts prevailing in the country where protection is sought.
3. The period of protection shall be at least five years. National laws may provide for renewal of protection, or ensure a longer term of protection.

(Translation)

IV

Trade Marks

THE International Chamber of Commerce submits to the Governments concerned and to the Berne International Bureau the following proposals concerning the international treatment of trade marks.

Reasons for refusal of trade marks (Art. 6)

Replace paragraphs A and B of Article 6, which deal with such marks as may be refused or cancelled, by the following text:

* The French and Yugoslav Delegations abstained from voting.

- A. Persons entitled to the benefit of the Convention shall enjoy the right to deposit or register their trade marks in the other countries of the Union without being required to prove that they have a corresponding deposit or registration in any country of the Union, provided however that they comply with the other conditions and formalities prescribed by the law of such countries.
- B. Persons entitled to the benefit of the Convention who have registered a trade mark in their country of origin shall have the right to obtain registration and protection for the same trade mark in the other countries of the Union.

However, a country of the Union may refuse registration for a trade mark registered in the country of origin in the following cases:

1. When such trade mark conflicts with prior rights legally acquired by third parties in such country;
2. When such trade mark is contrary to the public order or when its registration is contrary to the requirements of fair competition;
3. When such trade mark is non-distinctive in fact; a mark shall be deemed to be such if:
 - a) it is deemed descriptive, i.e. it is composed exclusively of signs or indications which may serve to designate in trade the kind, quality, quantity, destination, value, place of origin of the products upon which the mark is applied;
 - b) it is deemed generic, i.e. it has become customary in the current language or in the *bona fide* and recognised custom of the trade of the country in question;
 - c) it is deemed otherwise devoid of distinctive character in fact.

In determining whether a trade mark is included in any of the categories a), b) or c), consideration must be given in each country of the Union to all the circumstances of the

case, such as the fact that the mark in question has been accepted for registration in a country of origin or other countries of the Union where the registering authority under the law inquires into the registrability of a trade mark prior to accepting it to registration or that the mark has been held to be distinctive by a final decision of a court in a Union country; the length and extent of the use of the trade mark in the countries of the Union; the recognition by the interested circles of the trade mark as indicating the origin with claimant; and any other factual circumstances.

Well-known trade marks (Art. 6 bis)

Replace Article 6 *bis* by the following text (*):

1. The countries of the Union undertake to refuse or to cancel the registration and also to prohibit the use, either administratively if their legislation so permits or at the request of an interested party, of any trade mark which constitutes a reproduction, imitation or translation capable of creating confusion with a mark considered by the competent authority of the country of registration or of use to be a well-known trade mark belonging to another individual or corporate body entitled to the benefits of the present Convention and utilized for identical or similar goods. These provisions shall also apply when the essential part of the mark constitutes a reproduction of any such well-known mark or an imitation capable of creating confusion therewith and when the first-mentioned mark is registered or used for products not identical or similar, if it nevertheless results in confusion, unjustified enrichment of the registrant or the user, or a real weakening of the distinctive character or again of the power of attraction of the well-known mark.

(*) The Portuguese Delegation voted against; the Yugoslav Delegation abstained from voting.

2. A period of at least five years shall be allowed for claiming the removal of the marks to which Paragraph 1 relates and the prohibition of their use. This period shall run from the date of registration of the mark or the commencement of its use.
3. There shall be no limit to the period within which application may be made for the cancellation or prohibition of marks registered or used in bad faith.
4. Those marks which, on account of intensive use or large-scale advertising, have become well-known in the circles concerned of the country in question shall in all cases be considered as well-known marks within the meaning of this article.

(Translation)

B

INTERNATIONAL DEPOSIT OF TRADE-MARKS

WHILE retaining on its program of work the study of the drafts relating to the international deposit of trade marks, the International Chamber of Commerce notes with satisfaction that the International Bureau at Berne has already taken the preliminary steps for the establishment of an International Trade-Marks Research Centre and welcomes this measure.

(Translation)

C

FORMALITIES REQUIRED FOR PATENT APPLICATIONS

THE International Chamber of Commerce notes that the Committee of Experts on Patents of the Council of Europe has undertaken a study of the unification of the formalities required for patent applications on the

basis of the draft drawn up by the 1926 Technical Meeting of the International Union for the Protection of Industrial Property.

Since the 1934 London Conference for the Revision of the Union Convention for the Protection of Industrial Property has recommended that the formalities required for patent applications be laid down in a uniform manner, the I.C.C. considers that it would be useful to solve this question at the level of the General Union for the Protection of Industrial Property.

The I.C.C. therefore recommends that the International Bureau of Berne take the necessary steps to have a Technical Meeting convened as soon as possible in order to draw up an arrangement in this field, and that the conclusions of the Technical Meeting be confirmed by a Diplomatic Conference.

(Translation)

D

EFFECTIVE PROTECTION OF PATENTS

THE International Chamber of Commerce is convinced that the international protection of patent rights of inventors is of great importance for the healthy development of international trade. It is vital that patents should effectively safeguard the rights of the patentees.

In many countries there are defects both in the law and in the legal procedure, which result in giving insufficient protection to the patentees and, for instance, in the refusal or revocation of patents for other reasons than lack of novelty, invention or technical merit.

The I.C.C. considers it to be of the utmost importance that the competent authorities take immediate steps to remedy these defects.

(Translation)

E

HORTICULTURAL AND AGRICULTURAL CREATIONS

I

THE International Chamber of Commerce is aware that adequate protection for horticultural, agricultural, floral and silvicultural creations is lacking in most countries of the world. The I.C.C. considers it of great importance that such protection should be given and is of the opinion that adequate protection of such creations could be given by adapting, where necessary, existing patent legislation. In other cases, the necessary protection would have to be given by special legislation. The I.C.C. will continue its studies in both these fields.

II

The International Chamber of Commerce is of the opinion that:

a) It is desirable to facilitate trade in the fields of agriculture, horticulture, flowers and forestry, and to promote fair dealing in those fields;

b) There is need for appropriate measures to be taken in each country, after consulting official and private organizations, with a view to forming a precise and detailed catalogue indicating, with their proper characteristics, the designations of the different varieties, whether old or new, that are dealt with commercially;

c) The use of such a catalogue should become obligatory.

(Translation)

20. Incoterms 1953

THE Vienna Congress welcomes the publication by the I.C.C. of the revised edition of Incoterms under the title of "INCOTERMS 1953" (Brochure 166).

It is confident that the adoption of these uniform rules of interpretation by business men in their sales contracts would make a substantial contribution to the smoother working of international trade.

The Congress appeals to National Committees of the I.C.C. to do all they can to promote the widest possible use of "INCOTERMS 1953", especially by urging business firms in their countries to make express reference to these rules in their foreign trade contracts.

(Original)

21. Trade Terms

THE I.C.C. welcomes the new edition of "TRADE TERMS" (I.C.C. Doc. No. 16), revised and brought up to date by its Committee on Trade Terms. Merchants and other interested parties are thereby provided with reliable information on the interpretation in various countries of the terms commonly used in foreign sales contracts, and are thus able to avoid misunderstandings as to the basis of their dealings.

(Original)

22. Uniform Law on International Sales

THE International Chamber of Commerce records with satisfaction the favourable reception given by governments at the Diplomatic Conference of The Hague in November 1951 to the Draft Uniform Law on International Sales drawn up by the International Institute for the Unification of Private Law.

The I.C.C. welcomes their efforts to secure uniform national laws so as to foster international trade.

The I.C.C. will be glad to lend its collaboration to the Special Committee appointed by the Diplomatic Conference of The Hague and to offer it the benefit of its experience of international commercial practice.

The I.C.C. is convinced that the Draft Uniform Law in conformity with the principle laid down in its Article 12 will usefully supplement the standardization already brought about by trade associations in their general sales conditions and by the I.C.C. in Incoterms.

(Translation)

23. Standardization of Contract Clauses Relating to Engineering Equipment

THE International Chamber of Commerce has been following with keen interest the work undertaken under the aegis of the Economic Commission for Europe of the United Nations with a view to obtaining the international standardization of certain clauses of contracts relating to engineering equipment.

The I.C.C. notes with interest the text prepared by the Ad Hoc Working Party on this question and appreciates, in particular, the fact that the clauses of this text have been largely based on current practice, that they are likely to ensure a proper balance between the rights and interests of the parties involved, and that express reference is made in them to Incoterms as well as to I.C.C. arbitration.

The I.C.C. hopes that this work will be fully successful.

(Translation)

24. Signature for Collection of Commercial Paper

1. **B**ANKS receive large quantities of commercial paper for collection, the signature of which means considerable and costly work on their part, since these signatures must, as a rule, be those of two persons duly authorized to sign. Generally, to be valid under commercial law, the endorsement of commercial paper must be signed by hand.

2. Desiring to increase productivity by reducing costs and rationalizing their services, banks have for some time now endeavoured to have handwritten signatures replaced by a practice requiring less work.

3. With a view to facilitating commercial relations, the International Chamber of Commerce took up this problem before the last war, and called upon the Committee on Banking Technique and Practice to study the whole question. A proposal was made for the conclusion of an agreement under the terms of which adherents would accept endorsement by facsimile or rubber stamp as valid, in spite of the provisions of the law of exchange prescribing manuscript signing; this proposal did not meet with the approval of the business circles concerned, who were unwilling to go counter to the existing law.

4. As the transmission of commercial paper for collection cannot be undertaken by means of endorsement without signature by hand, inter-bank agreements have been reached in some countries for commercial paper to be transmitted to the collecting bank not by way of endorsement in accordance with the law of exchange but merely by way of a mandate signed with the mandator's facsimile or rubber stamp. Indeed, in the case of a mandate, power of attorney may generally be given without a written signature being required. If, however, difficulties arise during collection, the collecting bank acting

as mandatory cannot claim bill rights against the drawee or endorsers. It has to have the bill noted on the basis of its mandate, because only endorsers can claim bill rights on their own behalf.

5. Having considered the work of the Committee on Banking Technique and Practice, the I.C.C. feels that the collection of commercial paper could be simplified by inter-bank agreements providing for the replacement of manuscript endorsement to order of the collecting bank, by a mandate bearing a facsimile or rubber stamp. It therefore recommends national banking organizations to examine the possibility of concluding such agreements in their own countries to start with, and subsequently on the international level, in the light of the experience acquired.

(Translation)

25. Enforcement of International Arbitral Awards

THE International Chamber of Commerce once again urges Governments to draw up a new convention providing for the enforcement of international arbitral awards in commercial matters. The International Chamber of Commerce draws their attention to the Report and Preliminary Draft Convention on this subject, drawn up by its Committee on International Commercial Arbitration (Brochure 174).

(Translation)

26. Disputes between Governments and Individuals

TO an increasing extent, governments, governmental agencies and government-controlled corporations have commercial dealings with foreign firms or individuals.

The International Chamber of Commerce is convinced of the advantage of having recourse to arbitration for the settlement of the disputes that may arise out of these commercial dealings and notes with satisfaction that its Court of Arbitration, originally founded to settle international commercial disputes between private individuals, has on several occasions been called upon to deal with international commercial disputes between States and individuals. The International Chamber of Commerce recommends governments, governmental agencies and government-controlled corporations to insert in their contracts with private individuals and firms of another country an arbitration clause providing for the settlement of possible disputes by recourse to existing organizations of international commercial arbitration.

However, in order to meet cases in which governments were not prepared to include in their contracts with private firms and individuals an arbitration clause under which they would be subject to private arbitral jurisdiction, the International Chamber of Commerce recommends that without prejudice to any other solutions proposed or which might be proposed to this effect by other qualified arbitration centres or committees, in particular by the Committee for Arbitration between States and individuals set up by the International Institute for the Unification of Private Law, the Permanent Court of Arbitration of The Hague might usefully study the possibility of adapting its organization to the settlement of disputes between States and individuals.

(Translation)

27. Applicability of the Geneva Convention on Enforcement of Foreign Awards

IN the interest of international commercial arbitration, the International Chamber of Commerce urges the Governments of the Signatory States of the Geneva Convention on Enforcement of Foreign Awards (1927) to dispel, at an early date, any doubts that may persist as to whether this Convention still applies to certain countries.

(Original)

APPENDIX

COMPETITION AND BUSINESS AGREEMENTS

Although the question of business agreements and competition was not considered at the Vienna Congress itself, its importance to business warrants the reproduction here of two resolutions adopted by the Executive Committee and the Council of the ICC.

Competition and Business Agreements

RESOLUTION

*adopted by the 50th Session of the Executive Committee
of the ICC **

Paris, 22nd October 1952

AFTER a thorough study of the problem of international business agreements affecting competition, the International Chamber of Commerce submits its conclusions to the Ad Hoc Committee on Restrictive Business Practices of the United Nations and to governments in general.

The I.C.C. does not question the superiority of the system known as the "market" system or the system of "free competition" over a planned economy. Not only is efficiency greater under the market system, but individual freedom is also better secured : freedom of choice for the consumer, freedom of movement and employment of manpower, free circulation of goods and capital.

Nor does it question the superiority of perfect competition over monopoly, as demonstrated by economic theory. Perfect competition ensures the most efficient use of the factors of production.

That is not, however, the point at issue, which is the problem of business agreements. Such agreements may be defined as arrangements under which competing private firms decide to act jointly in certain matters of industrial and commercial policy. They rarely have

(*) The American Delegation abstained from voting on the resolution on the ground that it deals essentially with a European problem.

the same effect as a monopoly. Normally, they stand somewhere in between perfect competition and monopoly. They take many forms and their effects on competition are extremely varied. They constitute moreover only one of the many elements which limit the free play of competition.

The theoretical arguments for and against agreements have little bearing on the practical problem. They are more or less valid according to the way in which each entente is established and managed and the economic sector in which it operates. Equity requires that the discussion should not become a debate about intentions, and should be removed from the field of theory.

Even a study of the facts leads only to doubtful and contradictory conclusions.

Doubtful, because it is extremely difficult to know the real structure of a market, to measure the real part played by competition, an agreement, or the two combined, to attribute to one or the other the phenomena observed and to eliminate the influence of a number of outside factors which affect the conditions of normal competition.

Contradictory, because according to the case studied, the agreement will be found to have been useful, harmful or merely neutral.

It would be presumptuous to praise or condemn on such flimsy grounds. Since the facts seem to show that agreements may either be of service or give rise to abuses, common sense requires that each case should be treated individually and assessed by standards which will vary from one country to another according to circumstances, traditions and economic structure, as well as from one product to another.

In practice, this is the spirit in which the authorities have approached the problem so far. Legislation has prohibited agreements in countries where economic conditions are such that they could serve no useful purpose. On the other hand, their validity has been recognized in countries where agreements can, if necessary, play a constructive part and legislation has generally provided for the prevention or suppression of abuses. In a few countries such laws are still only in the drafting stage. On the international plane, various projects have aimed at

organizing the supervision of restrictive business practices along similar lines.

In countries where the internal market is large and purchasing power at a high level, where there is abundant capital, and where the division of labour and specialization of firms took place spontaneously many years ago under the influence of unlimited competition at home, it is only natural that, in order to protect the consumer against abuses that may grow up under shelter from foreign competition, the law should prohibit agreements, except of course in special circumstances which the public authorities will have to appreciate.

In other cases, as for instance countries with small home markets, whose economic structure has been shaped — and distorted — by protectionism, government planning and other rigidities, the following general principles should be applied, pending the restoration of international competition in the full sense of the term through the elimination of economic and monetary obstacles :

- a) Even if agreements are useful in certain circumstances, they should not be turned into a system of economic organization, as this would be the negation of the market economy.

Parliaments would, therefore, be well advised to avoid or repeal any legislation aimed :

- either at systematically organizing the economy through ententes,
- or at giving private ententes regulatory powers which would be binding upon enterprises which had not adhered to them contractually.

- b) National legislation should neither prohibit nor ignore agreements.

Prohibition cannot be justified on moral or economic grounds, as the whole subject is hotly disputed. It would be just as big a mistake to ignore ententes, since this would leave the way open to abuses.

A practical solution must, therefore, be sought in the prevention of abuses.

- a) As far as possible, legislation should ensure this prevention by arranging for the investigation of abuses and their removal.

- b) Owing to the impossibility of clearly defining abuses and of foreseeing their various possible forms, enumeration of beneficial and harmful practices would create prejudice which would be too frequently — in individual cases — in conflict with equity.

The bodies called upon to investigate alleged abuses should be guided by two main principles :

- The restriction in the long run of production and trade;
- The acquisition by the members of an entente of advantages disproportionate to the service rendered.

- c) As it is impossible for an agreement to anticipate how its policy will be assessed by the judicial authorities, no civil or criminal penalties should be imposed before a legal injunction has specified the abuse and the reforms to be made in the operation of the agreement.

- d) Certain countries have endeavoured to prevent abuses by the registration of agreements. The I.C.C. believes that in this connection each country should adopt the solution appropriate to its traditions and its economic structure. For that reason it cannot recommend the extension of this method internationally.

On the international plane, similar principles might be taken as a basis for an intergovernmental convention for the prevention and suppression of abuses. However, should it be found useful to set up an international organization for this purpose, its role would have to be limited in view of the fact that, owing to the considerable variety of laws on this subject in different countries, it would not be possible either to establish a form of international procedure for judicial hearings, or *a fortiori* to empower the organization in question to give its decisions in accordance with a non-existent international law.

Therefore, the I.C.C. recommends that the following machinery be set up :

- a) If a government, following a complaint or for any other reason, is convinced that an international business agreement of enterprises in several coun-

tries, or even a business agreement of enterprises in one other country, has harmful effects as defined in paragraph b) above, then that government should consult the governments of the enterprises complained against.

- b) If satisfaction is not obtained, the complaining government should report its complaint with supporting evidence to the international organization. The international organization should sift the evidence in support of the complaint by means of an economic inquiry instead of a judicial inquiry .
- c) If the international organization is satisfied that there is a *prima facie* case, it should inform the governments of the enterprises complained against and request those governments to have the complaints investigated according to national legislation with a view to obtaining the suppression of the abuses.
- d) Governments would be obliged to notify the international organization of subsequent action on their part.

In conclusion, it should again be stressed that the circumstances which justify recourse to business agreements in certain countries are not necessarily of a permanent nature.

If, for instance, as there is reason to hope, the countries of continental Europe succeed in merging their national markets to form a single internal market, the pattern of European production will gradually change as a result and, after a transitional period, it will be possible to apply a new legislation to business agreements.

On the other hand, throughout the transitional period, agreements should be organized in such a way as to speed the change from a national to a European economy.

**Report of the United Nations
ad hoc Committee
on Restrictive Business Practices**

RESOLUTION

*adopted by the 79th Session of the Council of the I.C.C.
Vienna, 17th May 1953*

THE International Chamber of Commerce, representing as it does business interests throughout the world which are vitally concerned with the effects of restrictive business practices on international trade and world economy, believes that it is of great importance for the report of the United Nations Ad Hoc Committee on Restrictive Business Practices to be subjected to extensive examination and critical appraisal by this organization and by other non governmental and governmental agencies particularly qualified to evaluate its recommendations and estimate the effects of their application upon private enterprise and economic development.

Therefore, the International Chamber of Commerce respectfully petitions the Economic and Social Council to postpone taking action on this report for a period of not less than six months, allowing opportunity for such appraisals to be completed.

COMMERCIAL ARBITRATION

ARBITRAGE COMMERCIAL

The insertion in foreign contracts of the following clause is strongly recommended *"All disputes arising in connection with the present contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the Rules."*

L'insertion de la clause suivante est recommandée dans les contrats avec l'étranger *"Tous différends découlant du présent contrat seront tranchés définitivement suivant le Règlement de Conciliation et d'Arbitrage de la Chambre de Commerce Internationale par un ou plusieurs arbitres nommés conformément à ce Règlement."*

NATIONAL COMMITTEES OF THE I.C.C.

D = Director; *GM* = General Manager; *CN* = National Commissioner; *SG* = Secretary General



Australia	<i>SG</i> = W. H. BATHGATE, Room 210, 62, Margaret Street, Sydney N.S.W. ("Incomerc Sydney"; Tel Bx 1603).
Austria	<i>SG</i> = Dr. Franz KORINER, Stubenring 12, Vienna I (Tel. B. 28.500). <i>CN</i> = Dr. Eugene FRISCH, 52, Rue Etienne-Marcel, Paris II* (Tel. Gut. 82-10).
Belgian Congo	<i>SG</i> = Fred VAN DER LINDEN, 34, Rue de Stassart, Brussels (Tel. 11.98.73).
Belgium	<i>SG</i> = Max E. JOTTRAND, 33, Rue Ducale, Brussels ("Belginaco Brussels"; Tel. 12.17.85).
Brazil	<i>SG</i> = Rodolpho DE MEDEIROS, Avenida Graça Aranha, 182, Rio de Janeiro.
Canada	<i>GM</i> = Carl BERGITHON, 1411, Crescent Street, Montreal ("Inchcom Montreal"; Tel. Pl. 7882).
Denmark	<i>SG</i> = M. F. RAFFENBERG, Börsen, Copenhagen (Tel. Central 5320).
Finland	<i>CN</i> = Aage DESSAU, 38, Rue du Louvre, Paris, I*. <i>SG</i> = M. E. KOSKIMIES, Fabianinkatu 14, Helsinki.
France	<i>CN</i> = Kaarlo BRUSIN, 11, Rue de la Pépinière, Paris, VIII* (Tel. Eur. 38-75). <i>DC</i> = René ARNAUD, 82, Bd Malesherbes, Paris, VIII* ("Chambincofra Paris"; Tel. Eur. 58-74).
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Germany	<i>SG</i> = George REY, SOCOPAO, 4, Rue Lord-Byron, Paris, VIII* (Tel. Elv. 25-54). <i>CN</i> = Pierre DESOUCHES, 9, Av. de Breteuil, Paris VII* (Tel. Seg. 35-67). <i>SG</i> = Dr. Ferdinand HAERECHE, An den Dominikanern 15/27, Köln (Tel. 21.25.31).
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India	<i>SG</i> = Christos PANAGOS, Rue Winston Churchill, 41, Athens. ("Incomerc Athens").
Indochina	<i>CN</i> = Nicolas FOTOPOULOU, 38, Rue Scheffer, Paris, XVI*. <i>SG</i> = G. L. BANSAL, 28, Ferozshah Road, New Delhi ("Unicomind New Delhi"; Tel. 7623).
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Spain	<i>SG</i> = Erling NAESS, Börsen, Oslo, ("Börsen Oslo"; Tel. 42.33.80).
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Switzerland	<i>SG</i> = Jorge CHAMOT, 426, Virreyna, Lima.
Turkey	<i>SG</i> = Alberto LIMA BASTO, 89, Rua Eugenio dos Santos, Lisbon ("Incomerc Lisbon"; Tel. 27179).
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United States	<i>SG</i> = Antonio TIFFON, Ancha 11, Barcelona.
Uruguay	<i>SG</i> = Olof LEFFLER, Västra Trädgårdsgatan, 9, Stockholm ("Handelskammaren Stockholm"; Tel. 23.13.10).
Yugoslavia	<i>S</i> = Kurt SCHALLING. <i>SG</i> = Prof. Dr. Pierre Jean POINTET, 17, Börsenstrasse, Zurich ("Incomerc Zurich"; Tel. 23.27.07).
	<i>SG</i> = F. SUNTER, Yeni Han, Konya Sokak, Ankara.
	<i>D</i> = C. G. FREKE, C.I.E., 15, Kingsway, London, W. C. 2 ("Incomerc London"; Tel. Temple Bar 05-03).
	<i>D</i> = Lloyd K. NEIDLINER, 103, Park Avenue, New York 17 ("Usaintcham New-York"; Tel. Murray Hill 6-3181).
	<i>SG</i> = Julio BAYCE, Camara Nacional de Comercio, Bolsa de Comercio Montevideo.
	<i>SG</i> = Milan BABIN, Studentski Trg 15, Belgrade ("Yugokomora Belgrade").
	<i>CN</i> = Nikola JAKOVljeVIC, 154, Rue de Longchamp, Paris, XVI*.

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SELECTION OF I.C.C. PUBLICATIONS

E = English; F = French; D = German; I = Italian; P = Portuguese; S = Spanish.



INCOTERMS 1953

International rules for the interpretation of trade terms (F.O.B., C.I.F., etc.), helping to avoid misunderstandings in the conclusion of international contracts. Bilingual brochure: English and French.

Br. I.C.C. 166 E-F, 1953.

Price : Fr. fr. 300

TRADE TERMS

A digest giving the accepted definitions of the more important trade abbreviations (F.O.B., C.I.F., etc.) in 17 countries.

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UNIFORM CUSTOMS AND PRACTICE FOR COMMERCIAL DOCUMENTARY CREDITS

Rules for the unification of banking practice in respect of commercial documentary credits.

This publication is of the greatest interest to all engaged in these transactions.

Br. I.C.C. 151 E-F, D.I.P.S. 1951

Price : Fr. fr. 200.

STANDARD FORMS FOR THE OPENING OF DOCUMENTARY CREDITS

Set of forms adopted by the Lisbon Congress of the I.C.C. (June 1951) to serve as a complement to Brochure 5 "Uniform Customs and Practice for Commercial Documentary Credits" (see above).

Br. I.C.C. 159 E-F, D.I.P.S. 1951

Price : Fr. fr. 100

ADVERTISING : ITS CONDITIONS AND REGULATIONS IN THE VARIOUS COUNTRIES

A compendium of information on the conditions and regulations of advertising in various countries (media circulation, rates, professional organization, standards, etc.). A bilingual, loose-leaf publication.

Doc. I.C.C. N° 15, E-F, 1953.

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CODE OF STANDARDS OF ADVERTISING PRACTICE

A code adopted by 67 national federations with a view for the suppression of unfair methods in advertising in the interest of the advertising profession, of industrialists and traders, and of the public.

Br. I.C.C. 144 E-F, 1950

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A dictionary giving for each term or expression currently used in Advertising and Distribution the equivalent in eight languages : English, Dutch, French, German, Italian, Portuguese, Spanish, Swedish.

Doc. I.C.C. N° 14, 1953.

Members : Swiss Fr. 55. Price : Swiss Fr. 80.

COMMERCIAL ARBITRATION AND THE LAW THROUGHOUT THE WORLD

Summary of the rules concerning arbitration agreements, procedure, arbitral awards, enforcement of awards, means of recourse.

Doc. I.C.C. N° 11, E-F, 1949.

Members : Swiss Fr. 33. Price : Swiss Fr. 55.

RULES OF CONCILIATION AND ARBITRATION

Rules of the Court of International Commercial Arbitration of the I.C.C. in force as from July 1st, 1947

Br. I.C.C. bt D.E.F.S. 1947.

Price : Fr. Fr. 100.

PRACTICAL HINTS ON COMMERCIAL ARBITRATION

A brochure explaining briefly and in practical manner the arbitration procedure of the I.C.C. for the settlement of international commercial disputes.

Br. I.C.C. bu D.E.F.S. 1947.

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WORLD YEARBOOK OF CHAMBERS OF COMMERCE

A bilingual, loose-leaf publication, giving essential information on the Chambers of Commerce of some sixty countries.

Doc. I.C.C. N° 13, E-F, 1953.

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"THE MARKET HANDBOOKS OF THE I.C.C."

A series of handbooks on the conditions of the market for a number of commodities in various countries (production, consumption, channels of distribution, legislation, etc.).